

AMENDED IN ASSEMBLY AUGUST 19, 2013

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN ASSEMBLY JUNE 20, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 9, 2013

## **SENATE BILL**

**No. 606**

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**Introduced by Senator De León**

February 22, 2013

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An act to amend Section 11414 of the Penal Code, relating to harassment.

### **LEGISLATIVE COUNSEL'S DIGEST**

SB 606, as amended, De León. Harassment: child or ward.

Under existing law, any person who intentionally harasses the child or ward of any other person because of that person's employment is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not exceeding \$1,000, or both. Under existing law, that crime is punishable by mandatory imprisonment in a county jail for not less than 5 days for a 2nd conviction, and by mandatory imprisonment in a county jail for not less than 30 days for a 3rd or subsequent conviction.

This bill would make a violation of the above provisions punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding \$10,000, or by both that fine and imprisonment for a first conviction. For a 2nd conviction, the bill would require a fine not

exceeding \$20,000 and imprisonment in a county jail for a period of not less than 5 days but not exceeding one year. For a 3rd or subsequent conviction, the bill would require a fine not exceeding \$30,000 and imprisonment in a county jail for a period of not less than 30 days but not exceeding one year. The bill would specify that harassment means knowing and willful conduct directed at a specific child or ward that seriously alarms, annoys, torments, or terrorizes the child or ward, and that serves no legitimate purpose, including, but not limited to, that conduct occurring during the course of any actual or attempted recording of the child's or ward's image or voice without the written consent of the child's or ward's parent or legal guardian, by following the child's or ward's activities or by lying in wait. The bill would specify that, upon a violation of the above provisions, a parent or legal guardian of an aggrieved child or ~~ward~~, *ward* may bring a civil action against the violator on behalf of the child or ward for ~~damages~~, as specified *remedies*. The bill would additionally provide that the act of transmitting, publishing, or broadcasting a recording of the image or voice of a child does not constitute commission of the offense.

By increasing the punishment for a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 11414 of the Penal Code is amended to
- 2 read:
- 3 11414. (a) Any person who intentionally harasses the child or
- 4 ward of any other person because of that person's employment
- 5 shall be punished by imprisonment in a county jail not exceeding
- 6 one year, or by a fine not exceeding ten thousand dollars (\$10,000),
- 7 or by both that fine and imprisonment.
- 8 (b) For purposes of this section, the following definitions shall
- 9 apply:
- 10 (1) "Child" and "ward" mean a person under 16 years of age.

(2) “Harasses” means knowing and willful conduct directed at a specific child or ward that seriously alarms, annoys, torments, or terrorizes the child or ward, and that serves no legitimate purpose, including, but not limited to, that conduct occurring during the course of any actual or attempted recording of the child’s or ward’s image or voice, or both, without the ~~written~~ *express* consent of the parent or legal guardian of the child or ward, by following the child’s or ward’s activities or by lying in wait. The conduct must be such as would cause a reasonable child to suffer substantial emotional distress, and actually cause the victim to suffer substantial emotional distress.

(3) “Employment” means the job, vocation, occupation, or profession of the parent or legal guardian of the child or ward.

(c) A second conviction under this section shall be punished by a fine not exceeding twenty thousand dollars (\$20,000) and by imprisonment in a county jail for not less than five days but not exceeding one year. A third or subsequent conviction under this section shall be punished by a fine not exceeding thirty thousand dollars (\$30,000) and by imprisonment in a county jail for not less than 30 days but not exceeding one year.

(d) Upon a violation of this section, the parent or legal guardian of an aggrieved child or ward may bring a civil action against the violator on behalf of the child or ward ~~for~~. *The remedies in that civil action shall be limited to one or more of the following: actual damages, all compensation received in connection with the sale, license, or dissemination of a recording of the child’s image or voice, punitive damages, reasonable attorney’s fees, and costs, disgorgement of any compensation from the sale, license, or dissemination of a child’s image or voice received by the individual who, in violation of this section, recorded the child’s image or voice, and injunctive relief against further violations of this section by the individual.*

(e) The act of transmitting, publishing, or broadcasting a recording of the image or voice of a child does not constitute a violation of this section.

(f) This section does not preclude prosecution under any section of law that provides for greater punishment.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

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